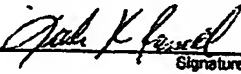


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PTO/SB/28 (09-04)

Approved for use through 07/31/2006. OMB 0631-0031

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<b>TERMINAL DISCLAIMER TO OBLIATE A DOUBLE PATENTING REJECTION OVER A "PRIOR" PATENT</b>		Docket Number (Optional) <b>Series 5716 (53b)</b>
In re Application of: <b>Ovidiu Marin, et al.</b>		
Application No.: <b>10/661,389</b>		
Filed: <b>September 11, 2003</b>		
For: <b>OXYGEN-ENRICHED COMBUSTION IN SUPERCRITICAL STEAM BOILERS</b>		
<p>The owner, <u>American Air Liquide, Inc.</u>, of <u>100</u> percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. <u>6,619,041</u> as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.</p> <p>In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:</p> <ul style="list-style-type: none"> <li>expires for failure to pay a maintenance fee;</li> <li>is held unenforceable;</li> <li>is found invalid by a court of competent jurisdiction;</li> <li>is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;</li> <li>has all claims canceled by a reexamination certificate;</li> <li>is reissued; or</li> <li>is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.</li> </ul> <p>Check either box 1 or 2 below, if appropriate.</p> <p>1. <input type="checkbox"/> For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.</p> <p>I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.</p> <p>2. <input checked="" type="checkbox"/> The undersigned is an attorney or agent of record. Reg. No. <u>34,918</u></p> <p style="text-align: center;">           Signature       </p> <p style="text-align: right;"> <u>March 9, 2005</u>          Date       </p> <p style="text-align: center;"> <u>Linda K. Russell</u>          Typed or printed name       </p> <p style="text-align: right;"> <u>713-624-8956</u>          Telephone Number       </p> <p><input type="checkbox"/> Terminal disclaimer fee under 37 CFR 1.20(d) included.</p> <p><b>WARNING:</b> Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.</p> <p>*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).          Form PTO/SB/28 may be used for making this certification. See MPEP § 324.</p>		

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-6199 and select option 2.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Docket No. Serie 5716 (53b)

Anticipated Classification of this application:

Class \_\_\_\_\_ Subclass \_\_\_\_\_

Prior application:

Examiner: \_\_\_\_\_

Art unit: \_\_\_\_\_

03940 U.S. PRO  
10/661389  
09/11/03

COMMISSIONER FOR PATENTS  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450

Dear Sir:

This is a request for filing a ☒ continuation ☐ divisional application under 37 C.F.R. §1.53(b), of pending prior Application Serial No. **10/106,547**, filed **March 26, 2002**, for **STEAM GENERATION APPARATUS AND METHODS**, by the following named inventor(s):

- (a) Full Name Ovidiu MARIN
- (b) Full Name Olivier CHARON
- (c) Full Name Erwin PENFORNIS

☒ The entire disclosure of the prior application from which a copy of the oath or declaration is supplied herewith is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein.

☐ This application is being filed by less than all the inventors named in the prior application. In accordance with 37 C.F.R. 1.63(d)(2), the Commissioner is requested to delete the name(s) of the following person or persons who are not inventors of the invention being claimed in this application.

- (a) Full Name \_\_\_\_\_
- (b) Full Name \_\_\_\_\_
- (c) Full Name \_\_\_\_\_

1. ☒ Enclosed is a copy of the prior Application No. **10/106,547** as filed on **March 26, 2002** including copies of the specification, claims, drawings and the executed oath or declaration as filed.

2. ☐ Enclosed is a revised prior application and a copy of the prior executed oath or declaration as filed. No new matter has been added to the revised application.

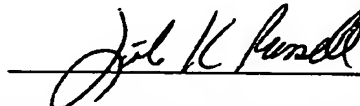
3. ☐ statement(s) claiming small entity status ☐ are enclosed ☐ were filed in prior Application No. \_\_\_\_\_, filed on \_\_\_\_\_.
4. ☒ The filing fee is calculated below ☐ and in accordance with the enclosed preliminary amendment:

CLAIMS					
	NO. OF CLAIMS		EXTRA CLAIMS	RATE	FEE
Basic Application Fee					\$750.00
Total Claims	20	MINUS 20 =	0	x \$18.00=	\$00
Independent Claims	1	MINUS 3 =	0	x \$84.00=	\$0.00
If multiple dependent claims are presented, add \$280.00					
Total Application Fee					\$0.00
If small entity status is claimed, subtract 50% of Total Application Fee					
Add Assignment Recording Fee of \$40.00 if Assignment document is enclosed					
TOTAL APPLICATION FEE DUE					\$750.00

5. ☒ Charge \$ 750.00 to Deposit Account No. 01-1375 for fee due.
6. ☐ A check in the amount of \$ \_\_\_\_\_ is enclosed for the fee due.
7. ☒ The Commissioner is hereby authorized to charge any appropriate fees under 37 C.F.R. §§ 1.16, 1.17 and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 01-1375. This paper is submitted in duplicate.
8. ☐ Cancel in this application original claims \_\_\_\_\_ of the prior application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes.)
9. ☐ Amend the specification by inserting before the first line the sentence: --This application is a divisional of Application No. \_\_\_\_\_ filed \_\_\_\_\_.
10. ☐ Transfer the drawings from the pending prior application to this application and abandon said prior application as of the filing date according this application. A duplicate of this paper is enclosed for filing in the prior application file. (May only be used if signed by person authorized under 37 C.F.R. § 1.138 and before payment of issue fee.)
11. ☐ New formal drawings are enclosed.

12. ☐ Priority of Application No. \_\_\_\_\_ filed on \_\_\_\_\_ in \_\_\_\_\_ (country) is claimed under 35 U.S.C. § 119.
- ☐ The certified copy of the priority application
- ☐ is enclosed
  - ☐ was filed on \_\_\_\_\_ in prior Application No. \_\_\_\_\_, filed on \_\_\_\_\_.
  - ☐ has not yet been filed.
13. ☐ A preliminary amendment is enclosed.
14. ☐ Also enclosed \_\_\_\_\_.
15. ☒ The power of attorney in the prior application is to Linda K. Russell, Reg. No. 34,918.
- a. ☒ The power appears in the original papers in the prior application.
  - b. ☐ Since the power does not appear in the original papers, a copy of the power in the prior application is enclosed.
  - c. ☐ Recognize as Associate Attorney
  - d. ☒ Address all future communications to:  
Linda K. Russell  
Intellectual Property Department  
Air Liquide  
2700 Post Oak Boulevard, Suite 1800  
Houston, Texas 77056

Date: September 11, 2003  
Air Liquide  
2700 Post Oak Blvd., Suite 1800  
Houston, Texas 77056  
(713) 624-8956  
(713) 624-8950 FAX

  
\_\_\_\_\_  
Linda K. Russell, Registration No. 34,918  
☐ Inventor(s)  
☐ Assignee of complete interest  
☒ Attorney or agent of record  
☐ Filed under § 1.34(a)